

Remarks/Arguments

Claims 1-5 and 7-17 are pending in the application. Claim 1 is currently amended and claim 6 is canceled. Claims 16 and 17 are new.

Claims 1-6, and 8 were provisionally rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1-6 of co-pending U. S. Application No. 10/733,548. Accordingly, Applicant has enclosed a terminal disclaimer to address the provisional double-patenting rejection and withdrawal of the rejection is requested.

Claims 1-6, 9 and 15 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,916,113 ("Johnson"). This rejection is respectfully traversed for the following reasons.

Johnson discloses rotary conveyers 33 that "carry and pass crops to be harvested from a first consecutive rotary conveyer to a second consecutive adjacent rotary conveyer along the longitudinal axis of the row unit." (Col. 3, lines 35-40. The Johnson rotary conveyers of Johnson are generally all the same configuration. "In the preferred embodiment illustrated, protuberances 64 comprise four equidistantly paddles extending about 360 degrees about axis 58." (Col. 5, lines 48-50.)

In contrast to Johnson, claim 1 recites a separate gathering element and conveying element, which are different in shape and configuration from one another. In claim 1, the gathering element has "elongated carriers" for grasping, whereas the "conveying element" comprises "a series of teeth projecting from a generally circular core to a lesser extent than the elongated carrier elements." Further, the "gathering element" has "a first operating envelope" and "the conveying element" has "a second operating envelope partially overlapping with the first operating envelope." Nothing in Johnson teaches or suggests a conveying element distinct from a gathering element, as now recited in amended claim 1.

For the foregoing reasons, Applicant respectfully requests for the withdrawal of the rejection of claim 1. Further, because claims 2-5 and 7-17 depend upon claim 1, claims 2-5 and 7-17 are patentable for at least similar reasons to claim 1.

Claim 7 was rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,916,113 ("Johnson"). This rejection is respectfully traversed based on the above reasoning. The above reasoning applies with equal force to this section

103 rejection.

Claims 10-14 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,916,113 to Johnson in view of U.S. Patent Application No. 2001/0003237 ("Wolters"). This rejection is respectfully traversed.

Nothing in Wolters makes up for the previously noted deficiencies of Johnson. Accordingly, claims 10-14 are patentable for at least the same reasons noted above.

Claim 6 was deleted because the features of claim 6 were incorporated into claim 1. New claims 16 and 17 were added to further define the teeth of the conveying elements.

In conclusion, it is believed that this application is in condition for allowance, and such allowance is respectfully requested.

Any fees or charges due as a result of filing of the present paper may be charged against Deposit Account 04-0526.

Respectfully,



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